

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(Philadelphia)

IN RE:

Alessandro B. Micozzi & Kristi M. Micozzi
Debtors

CHAPTER 13

CASE NO.: 21-10629-mdc

HEARING DATE: 11/22/2022

TIME: 10:30 a.m.

LOCATION: COURTROOM #2

MOTION OF WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2014-2, FOR RELIEF FROM THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. § 362(A) TO PERMIT MOVANT TO COMMENCE OR CONTINUE FORECLOSURE PROCEEDINGS ON 306 HARVARD AVENUE, BROOMALL, PA 19008

AND NOW COMES, WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2014-2 (“Movant”), by and through its attorneys, Hill Wallack LLP, and respectfully represents as follows:

1. This Motion (the “Motion”) is filed by Movant for relief from the automatic stay provisions of 11 U.S.C. §362(a) to permit Movant to continue its foreclosure on real property located at 306 Harvard Avenue, Broomall, PA 19008 (the “Mortgaged Premises”).

2. On or about June 10, 2004, Alessandro B. Micozzi & Kristi M. Micozzi (“Debtors”) executed and delivered to FINANCE AMERICA, LLC. DBA FINAM, LLC. a Promissory Note (“Promissory Note”) in the principal amount of \$236,500.00. A true and correct copy of the Promissory Note is attached hereto and made a part hereof as Exhibit “A.”

3. To secure the obligations under the Promissory Note, Debtors granted MORTGAGE ELECTRONIC REGISTRATIONS SYSTEMS INC., SOLELY AS NOMINEE FOR FINANCE AMERICA, LLC. DBA FINAM, LLC. ITS SUCCESEORS AND ASSIGNS a valid, enforceable, and recorded first lien and mortgage (the “Mortgage”) on the Mortgaged Premises, all of the terms of which are incorporated herein by reference as if fully set forth at length, which Mortgage was thereafter recorded in the Delaware County Recorder of Deeds

Office on June 16, 2004 in RD BK03207-1233 as Instrument # 2004077008. A true and correct copy of the Mortgage is attached hereto and made a part hereof as Exhibit "B."

4. Movant is the current mortgagee by virtue of an Assignment of Mortgage. A true and correct copy of the full recorded Assignment of Mortgage Chain is attached hereto and made apart hereof as Exhibit "C."

5. On March 15, 2021, Debtors commenced the instant Chapter 13 bankruptcy proceeding by filing a petition for relief under Chapter 13 of the United States Bankruptcy Code.

6. The Debtor in their Schedules filed March 15, 2021 states that the current value of the Mortgaged Premises is \$268,303.50, after consideration of cost of sale.

7. A Proof of Claim was filed by Movant on April 9, 2021 as Claim #7-1. The Proof of Claim is in the amount of \$204,049.82 with pre-petition arrears due in the amount of \$42,109.44 together with additional legal fees and costs and taxes due and payable on the Mortgaged Premises.

8. The current monthly payment on the Mortgage is \$2,051.84.

9. On or about March 15, 2021, Debtors proposed a Chapter 13 Plan of Reorganization in which they propose to cure prepetition arrears while paying ongoing post-petition mortgage payments directly to Movant.

10. The Debtors are currently in arrears post-petition for their failure to pay the post-petition payments due September 1, 2022 through October 1, 2022, in the amount of \$4,103.68 (\$2,051.84 x 2 months) less a suspense balance in the amount of \$5.35, for a total amount due of \$4,098.33. A copy of the post-petition ledger is attached hereto and made a part hereof as Exhibit "D."

WHEREFORE, WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2014-2 respectfully requests that this Court enter an Order granting relief from the automatic stay provisions of 11 U.S.C. § 362(a) to allow Movant to proceed in its foreclosure of the Mortgaged Premises, to name the Debtors in the foreclosure suit solely for the purpose of foreclosing their

interests in the Mortgaged Premises, and to allow Movant, or any other purchaser at the Sheriff's Sale, to take any legal action necessary to gain possession of the Mortgaged Premises.

Respectfully submitted,

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